

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ORANGEBURG DIVISION**

Michele Lynn O'Donnell,)	
)	Civil Action No.: 5:17-cv-00124-JMC
Plaintiff,)	
)	
v.)	ORDER
)	
Nancy A. Berryhill, ¹ Acting Commissioner))	
of Social Security Administration,)	
)	
Defendant.)	
_____)	

This matter is before the court for a review of the Magistrate Judge's Report and Recommendation ("Report") (ECF No. 22), filed on February 28, 2018, recommending that the decision of the Commissioner of Social Security to deny Plaintiff's claim for Disability Insurance Benefits be reversed and remanded for further proceedings. The report sets forth the relevant facts and legal standards which this court incorporates herein without a recitation.

The Magistrate Judge's Report and Recommendation is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court reviews de novo only those portions of the Report and Recommendation to which specific objections are filed. *See Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005). The court may accept, reject, or modify, in whole or in

¹ Nancy A. Berryhill became the Acting Commissioner of Social Security on January 23, 2017. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Nancy A. Berryhill should be substituted for Carolyn W. Colvin as Defendant in this action. No further action need be taken to continue this suit by reason of the last sentence of section 205 (g) of the Social Security Act, 42 U.S.C. § 405(g).

part, the Magistrate Judge's recommendation or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The parties were notified of their right to file objections. On March 5, 2018, the Commissioner filed her Reply to the Report (ECF No. 24), providing notice that the agency will not file objections to the Report. In the absence of objections to the Magistrate Judge's Report and Recommendation, this court is not required to provide an explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Instead, the court must "only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note). Furthermore, failure to file specific written objections to the Report and Recommendation results in a party's waiver of the right to appeal from the judgment of the District Court based upon such recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).

After a careful review of the Report and the record in this case, the court does not find clear error and **ACCEPTS** the Report of the Magistrate Judge (ECF No. 22), and incorporates it herein. Therefore the Commissioner's decision is reversed and remanded for further proceedings.

IT IS SO ORDERED.

A handwritten signature in black ink that reads "J. Michelle Childs". The signature is written in a cursive, flowing style.

United States District Judge

May 22, 2018
Columbia, South Carolina